



**Planning Department**  
**Planning and Zoning Commission**  
**February 3, 2016 Meeting**

**Staff Report**

**DATE:** January 28, 2016

**TO:** Planning and Zoning Commission Members

**FROM:** Aaron Tucker, Planning Technician

**SUBJECT:** **Z-2015-08** Request by Yousef Youannas to rezone property owned by Blue Jay Investments, LP from Residential Village - Conditional Zoning (RV-CZ) to Residential Village - Conditional Zoning (RV-CZ), as amended. The property measures approximately 3.51 acres and is located off Heritage Oaks Drive, Cabarrus County PIN #5633-99-4201.

<b>A. Actions Requested by Planning and Zoning Commission</b>
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1. Hold Public Hearing
2. Motion to approve (deny) a Resolution to Adopt a Statement of Consistency
3. Motion to approve (deny) a Resolution to Zone

<b>B. Decision and Required Votes to Pass Requested Action</b>
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Section 3.3.4.2.2 of the UDO allows the Planning and Zoning Commission to render a final decision on the rezoning request subject to an affirmative vote of three-fourths of the Commission members present and not excused from voting, and if there is no appeal of the decision. If there is a denial, an approval by a vote of less than three-fourths, or an appeal of the decision, then only the City Council shall have final decision making authority. Any final decision rendered by the Commission may be appealed within fifteen (15) days to the City Council.



## C. Background

### Summary

The subject property was annexed by the City of Kannapolis in 2002. In rezoning case, Z-217, the property was rezoned from Low Density Residential - Cabarrus County Zoning (LDR) to Residential Village – Conditional Zoning (RV-CZ) in June of 2002. The applicant is now requesting a rezoning from RV-CZ to RV-CZ (as amended) so the property will no longer be tied to the conditions associated with the original conditional rezoning of the property.

### Timeline

The subject property was annexed by the City of Kannapolis in 2002 so it could be combined with a previous rezoning (Z-215 Autumn Woods). The subject property could not be included in rezoning Z-215 because it was already part of another subdivision (Heritage Oaks Estates) which had not been annexed by the City of Kannapolis. Once the subject property was annexed, it was then allowed to be rezoned to RV-CZ and was combined with the proposed development surrounding it. The property was originally rezoned to RV-CZ with anticipation of the property being part of a 266-lot detached single family development.

## D. Fiscal Considerations

None

## E. Policy Issues

Section 3.3.5 of the UDO states that the Planning and Zoning Commission may consider the following questions, at a minimum, in reviewing an application for a rezoning:

**1. The size of the tract in question.**

The size of the subject tract is approximately 3.51 acres.

**2. Does the proposal conform with and further the goals and policies of the Land Use Plan, other adopted plans, and the goals, objectives, and policies of this Ordinance?**

The subject property is located in the “Eastern Growth Area” as designated in the City of Kannapolis 2015 Land Use Plan (LUP). The LUP recommends Single-Family Residential use for this property at a density of 2 units/acres. The applicant’s proposal is for 5 lots on 3.51 acres, for a density of 1.4 units per acre. Based on a proposed density that is lower than the LUP recommendation, staff believes that the proposed rezoning is consistent with the 2015 Land Use Plan and UDO.

**3. Is the proposed rezoning compatible with the surrounding area?**

The property is part of a conditional rezoning that is located in an area which is not contiguous with the City’s corporate limits. All surrounding parcels within the City limits of Kannapolis are zoned RV-CZ. The proposed rezoning can therefore be considered to be compatible with the surrounding area. In addition, the proposed



development will be consistent with existing single family development that is located on either side of Heritage Oaks Drive.

**4. Will there be adverse effects on the capacity or safety of the portion of street network influenced by the rezoning?**

The prior approved plan that this property was part of allowed up to 266 single-family residential house lots. The applicant is proposing to subdivide a 3.5 acre portion of this development into 5 lots. The density of the proposed development will be approximately 1.4 units per acre, compared to 3.5 units per acre for the previously approved development. The proposed development is much less intense than what was originally approved. Due to the small number of lots proposed, it is not expected that there will be any adverse effects on the capacity or safety of the portion of street network influenced by this rezoning.

**5. Will there be parking problems?**

No parking problems are anticipated. Single family dwelling units are required to provide enough off street parking for two vehicles.

**6. Will there be environmental impacts that the new use will generate, such as excessive storm water runoff, water, air or noise pollution, excessive nighttime lighting, or other nuisances?**

The property is not located in a watershed protected area. All land disturbing activity will be less than one acre per lot.

**7. Has there been any change of character in the area due to installation of public facilities, other zone changes, new growth trends, deterioration, and development?**

Since the rezoning in 2002, the properties that were part of this conditional rezoning have been sold to other parties and have new ownership. The 266 lot single family development included two lots to the east and the south that were intended to be used as street connections for the proposed development. Those “connection” lots have since been sold off and will not be available for this purpose. The fact that all the parcels in the original conditional rezoning have been sold off, including those which would provide for street connections to this development, makes it very unlikely that the proposed development approved in 2002 will ever occur.

**8. Is there compliance with the adequate public facilities criteria?**

Water and sewer facilities are not available for the subject property. The developer is responsible for the extension of those utilities to the subject property. The proposed 5 lots will be on well and septic.

**9. What are the zoning districts and existing land uses of the surrounding properties?**

Properties to the north are zoned Residential Village – Conditional Zoning (RV-CZ) and contain single family residential land uses. Properties to the South are zoned Low Density Residential (LDR Cabarrus County Zoning), and also are occupied by residential land uses. Properties to the East are zoned RV-CZ and are developed with single family



residences. Finally, properties to the west are zoned LDR and are developed with single family residential uses.

**10. Is the subject property suitable for the uses to which it has been restricted under the existing zoning classification?**

The current zoning, “RV-CZ”, currently allows for single family detached residences at a density of 3.5 units per acre and the lot layout is tied to a specific set of construction documents and conditions. Other lots included in the approved set of construction documents have been sold off to different owners. In addition, vesting for the layout plan approved for this development has expired. Therefore, it is no longer possible to develop the plan that was approved. The applicant is proposing a lot configuration that is different and less intense than what was approved in the set of the construction documents associated with the prior conditional rezoning.

Therefore, the subject property is not considered suitable for the uses to which it has been restricted.

**11. Is the rezoning compatible with the adjacent neighborhood, especially residential neighborhood stability and character?**

The proposed lot configuration is similar to that lots located on either side of Heritage Oaks Drive. The rezoning change would therefore be compatible with the surrounding area.

**12. What length of time has the subject property remained vacant as zoned?**

The subject property has been vacant since it was rezoned in 2002 (14 years).

**13. Is there an adequate supply of land available in the subject area and the surrounding community to accommodate the zoning and community needs?**

The proposed new development of 5 single family residential lots will be less intense than what was originally approved for this property. At the time this property was originally rezoned in 2002, residents of the area were concerned that the proposed 266-single family detached development would put a heavy strain on the infrastructure of the surrounding area. In terms of available land supply, there is a significant amount of vacant land in the vicinity of this property.

**14. Was the existing zoning in error at the time of adoption?**

No.

**F. Legal Issues**

None

**G. Finding of Compliance with Adopted Plans and Reasonableness**

The 2015 Land Use Plan recommends single family residential use of this property at a density of 2 units/acre. The use of single family residential development has historically been allowed,



and is currently a permitted use, within this RV-CZ zoning district. Since the proposed rezoning represents a density of less than the 2 units/acre recommended by the LUP, staff believes that the proposed rezoning is consistent with the 2015 Land Use Plan and UDO.

## **H. Attachments**

1. Zoning/Vicinity Map
2. Aerial Map
3. 2015 Future Land Use Map
4. Rezoning Application
5. Proposed Lot Layout
6. Notice of Public Hearing
7. List of Adjacent Property Owners
8. Legal Ad
9. Signs Posted on Property
10. Resolution to Adopt a Statement of Consistency
11. Resolution to Zone

## **I. Staff Recommendation and Alternative Courses of Action**

### **Staff Recommendation**

**Based on the request being consistent with the goals and strategies of the City of Kannapolis, staff recommends approval of Zoning Z-2015-08, subject to the following conditions:**

1. A maximum of five (5) lots be permitted on the subject property, with no further subdivision to occur;
2. Water and sewer service be provided for each of the lots being created;
3. All necessary permits and approvals are obtained from the City of Kannapolis, Cabarrus County and State of North Carolina, prior to development of any of the five (5) lots being created.

**The Planning and Zoning Commission may choose to approve or deny the petition as presented.**

### **Alternative Courses of Action**

#### **APPROVAL**

#### **Two Motions required:**

##### **Motion # 1**

1. Should the Commission choose to **approve** Z-2015-08, a motion should be made to **adopt** the following Statement of Consistency:



**Statement of Consistency:** *The Planning and Zoning Commission finds this zoning map amendment as represented in Case Z-2015-08 consistent with the recommendations of the 2015 City of Kannapolis Land Use Plan, which calls for single-family residential use of this property at a density of 2 units/acre, and is therefore approved based on consideration of the application materials, information presented at the public hearing, and recommendations provided by Staff.*

**Motion # 2**

2. Should the Commission choose to **approve** Z-2015-08, a motion should be made to **adopt** the Resolution to Zone (attached).

**DENIAL**

**Two Motions required:**

**Motion # 1**

1. Should the Commission choose to recommend **denial** of Z-2015-08, a motion should be made to adopt the following Statement of Inconsistency:

**Statement of Inconsistency:** *The Planning and Zoning Commission finds this zoning map amendment as represented in Case Z-2015-08 is not consistent with the recommendations of the 2015 City of Kannapolis Land Use Plan because (state reason) and is neither reasonable nor in the public interest because (state reason) and is, therefore, denied based on consideration of the application materials, information presented at the public hearing, and recommendations provided by Staff.*

**Motion # 2**

2. Should the Commission choose to **deny** Z-2015-08, a motion should be made to **deny** the Resolution to Zone.

**J. Issue Reviewed By:**

City Manager  
City Attorney  
Public Works Director  
Planning Director